

Dealing with debts

Information for people affected by cancer

A cancer diagnosis can cause financial difficulty. Dealing with any issues early on, with professional advice, will give you the best chance of managing your finances.

This fact sheet provides information for people who are having trouble paying their debts. For general information on managing your finances during and after cancer, see Cancer Council's booklet *Cancer and Your Finances*.

Making payment arrangements

If you have debts that you can't pay, start by contacting the person you owe money to (the credit provider) and explaining your situation. Sometimes, if you let them know that you or a family member has cancer, they may be able to help.

The creditor may agree that you can:

- stop making payments for a short time, such as 6–12 months
- make lower payments for a short time
- pay by instalments
- pay a reduced amount
- be excused from paying the debt altogether.

You should only agree to an instalment amount that you can realistically afford. If you come to an agreement, make sure you get it in writing.

Not meeting your agreed arrangements with your creditors might affect your credit rating.

If you need help understanding any of the agreement documents, talk to a lawyer or financial counsellor. If you cannot come to an agreement, a hardship variation may be an option for you. See page 2 for further information.

Be very careful of businesses advertising debt agreements to avoid bankruptcy, which can often be expensive. Always obtain independent advice from a financial counsellor before entering into a debt agreement or considering bankruptcy.

You can contact the National Debt Helpline on 1800 007 007 or online at www.ndh.org.au for free financial counselling and advice.

Special arrangements for electricity and gas bill debts

Most electricity and gas companies have a hardship program. This means they may offer flexible payment options to customers who are having trouble paying their bills. Options may include paying a small amount each week or giving you an extension on time to pay.

If you come to an agreement to pay a small amount each week or fortnight and you keep paying that amount, your electricity or gas cannot be disconnected.

If your electricity or gas has already been disconnected, contact the supplier to try to make a new arrangement. If you can agree on payments, they may reconnect you. You may have to pay disconnection and reconnection fees.



If the creditor agrees you can stop making payments for a short time, confirm that interest and fees will not be charged during that period.

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Hardship variations

A hardship variation is a formal process where you ask your credit provider to change the terms of your loan contract.

You have a legal right to ask for a hardship variation if you meet all of the following conditions:

- your loan is predominantly for a personal purpose (such as home loan, personal loan and car loan), not a business purpose
- you can reasonably repay the debt (perhaps you are planning to go back to work, or your debt is reasonably small and you can pay it off over a longer term)
- you can't pay at this time because of illness, unemployment or another reasonable cause.

Hardship variations are for people who can reasonably repay their debt. This means that you will be able to repay the loan within a reasonable amount of time. If your financial hardship is long-term and you won't be able to reasonably repay the loan, you may need to consider other options, including debt release, selling assets or, as a last resort, bankruptcy.

You can ask your credit provider for reduced repayments or a hold on repayments until your situation improves.

To request a variation, contact the credit provider by phone or in writing. If there is a nominated person or department that deals with financial hardship, then contact that person or department and tell them you are experiencing hardship.

The credit provider is required by law to respond to your request in writing within 21 days. If your application is refused, the credit provider must provide reasons.

If you think the reasons provided are unfair, you can complain to the credit provider. If your complaint is not adequately resolved, you can contact the Australian Financial Complaints Authority (AFCA) on 1800 931 678 or afca.org.au. AFCA offers free and independent dispute resolution without going to court.



- Ask for a hardship variation before you fall behind on your loan.
- Getting a hardship variation can protect your credit rating. If you get a variation agreement before your provider records a default on your credit report and you are up to date with the lower repayments, the provider can't later record it.

Refinancing

You might consider refinancing to manage your debt. This involves replacing an existing loan with a new one or extending your loan.

Some unscrupulous or shady credit providers take advantage of people in financial difficulty. They might offer refinancing or debt consolidation deals that lead to more problems. Sometimes they charge very high establishment fees and interest rates, and make the loan term very short. The credit provider usually knows you won't be able to make repayments, but they can obtain fees, charges and interest from you. This is called predatory lending.

Before you refinance, get independent advice from a financial planner or financial counsellor. If you think you have a loan with a predatory lender speak to a lawyer or call Cancer Council 13 11 20.

Selling assets

You might decide that you need to sell one of your assets to repay your debts. Here are some things to keep in mind:

- If the asset is mortgaged (such as a home), you need to repay the loan from the sale or make other arrangements with the lender.
- Check if you will be charged any fees for repaying the loan early. If there are fees, consider getting advice from a financial counsellor.
- Some assets don't hold their value well. For example, if you are selling your car to pay off your car loan, the money from the sale might not cover the outstanding loan amount.

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- You may be able to negotiate a repayment arrangement while the asset is being sold.

Debt release

In some special circumstances, you can ask the bank to write off (release) your debt altogether. This is rare, and is usually only an option for people who have been receiving Centrelink benefits for a long time and have no assets except household goods and tools of trade.

A lawyer or financial counsellor can help you apply to have your debts released. Call Cancer Council 13 11 20 for more information.

Other options

You might be able to get early access to your superannuation (super) to pay off your debts. This is only available for certain types of debts. Before accessing your super early, check your insurance entitlements. Many funds have insurance attached to superannuation accounts, with premiums deducted automatically from your preserved amount. If you withdraw all of your super, you may not be able to meet your insurance premiums and could lose your insurance. For more information, see the fact sheet *Superannuation and cancer*.

If a creditor is taking you to court

- If you receive an official court document, like a statement of claim, it's important to obtain legal advice straightaway. You have only 28 days from the date the claim was served on you to respond or file a defence.
- You should never ignore a statement of claim. You may have the right to get the statement of claim stayed (put on hold) and lodge a dispute in an external dispute resolution scheme (EDR). This may give you the opportunity to make a repayment arrangement and avoid judgment being obtained against you. If you don't respond within 28 days, the creditor can get a default judgment against you. This means the court will order that you must pay the money to the creditor. If you don't, the creditor will be able to take some of your income and assets to repay what you owe, unless or until an application is made to have a default judgement set aside (which can be costly).
- Sometimes, dodgy debt collectors can give you documents that look like a statement of claim but aren't. This is a tactic used to frighten people who owe money to get them to pay the debt. This is fraud and it is against the law. If you are not sure whether the statement of claim you have received is genuine, see a lawyer immediately.

Where to get help and more information

- National Debt Helpline on **1800 007 007**
- The ASIC consumer website at moneysmart.gov.au
- Cancer Council **13 11 20** for information and support. Download information from your local website.

ACT..... actcancer.org
 NSW cancercouncil.com.au
 NT nt.cancer.org.au
 QLD cancerqld.org.au
 SA cancersa.org.au
 TAS cancertas.org.au
 VIC cancervic.org.au
 WA cancerwa.asn.au
 Australia..... cancer.org.au

Note to reader

This fact sheet is intended to provide general information and is not a substitute for professional medical, legal or financial advice. You should talk to a professional about your specific situation.

All care is taken to ensure that the information in this factsheet is correct at the time of publication. Please note that laws, regulations and entitlements that affect people with cancer may change. Cancer Council Australia and its members exclude all liability for any injury, loss or damage incurred by use of or reliance on the information provided in this factsheet.



For information and support on cancer-related issues, call Cancer Council **13 11 20**. This is a confidential service.